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REMARKS

In the Office Action, the Examiner noted that claims 1-18 and 27-40 are pending in the application, and that claims 1-18 and 27-40 are rejected. By this Amendment, claims 15 and 16 have been amended, claims 2, 4-6 and 8 have been cancelled, and new claims 41-45 have been added. Thus, claims 1, 3, 7, 9-18 and 27-45 are pending in the application. The Examiner's rejections are traversed below.

Applicant graciously acknowledges the Examiner's willingness to meet and discuss the inventive aspects of the present invention and to participate in a demonstration. The substance of the interview is contained in the Examiner's Interview Summary, as well as the prior art discussion herein. Applicant requests the Examiner to notify the Applicant if any additional supplementation of the record is necessary.

The Examiner's rejections are traversed below.

Rejection Under 35 U.S.C. Section 102

Claims 1-19 and 27-40 are rejected under 35 U.S.C. Section 102(e) as being anticipated by Walker et al., U.S. Patent 6,107,932. Applicant respectfully disagrees.

Walker et al. **provides a ticket that can be altered by a ticket holder** to obtain a refund or an upgrade. **Because the ticket is altered,** the ticket holder need not physically surrender the ticket to

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another entity in order to obtain the refund or upgrade. In this way, the problems associated with the

services and programs of the prior art which require physically surrendering the ticket for such

refunds or upgrades are overcome. Thus, Walker et al. **does not at all relate** to the present invention

as discussed in detail with the Examiner and as described below in an element-by-element

comparison.

In addition, as discussed with Examiner Firman, aspects of the present invention are being beta

tested with the Florida Marlins. User participation has been well received. As mentioned to the

Examiner, the following statistics regarding **commercial success of the invention** as used with the

Florida Marlins based on a significant sampling (over 2,300 responses):

User Sign Up Statistics for the Florida Marlins:

Total respondents:	2,381		
Total agreeing to wireless program:	1,438		
Total declining all wireless marketing:	260		
Total agreeing to wireless program on **mobile device**:	1,438/2,381	–	60%
Total agreeing to some form of wireless marketing:	2,121/2,381	–	89%

Applicant is including a sampling of actual user sign up forms used to obtain these statistics,

with identifying data of the individuals being redacted. Accordingly, for these reasons as well,

Applicant submits that the present invention is patentable over Walker et al.

In addition, the **present invention provides benefits** that **cannot** be provided by Walker et al.

Specifically, the Federal Communications Commission (FCC) promulgated the administrative CAN

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SPAM Act in August 4, 2004, copy enclosed, which only permits marketing of mobile device users

when permission has been obtained in advance. However, Walker et al. **does not disclose** any form of

registration system, as claimed in the present invention. Thus, Walker et al. cannot provide the

benefits of the present invention, and therefore, for these reasons as well, Applicant respectfully

submits that the present invention patentably distinguishes over Walker et al.

Applicant next provides an element-by-element comparison between Walker et al. and the

presently claimed invention. As can be seen, there are **significant differences** between Walker et al.

and the present invention. Since anticipation requires a showing of each and every claimed element,

Applicant respectfully submits that the anticipation rejection should be withdrawn, and such action is

earnestly requested. To expedite the Examiner's review, Applicant has bolded some of the differences

between Walker et al. and the presently claimed invention. This should not be construed as any

admission that Walker et al. shows any of the features of the present invention.

Claim Differentiators

Claim 1:

Walker:

> Referring next to FIG. 13, a process 1300 for enabling a ticket holder to upgrade a
> ticket 800 is described. The process 1300 begins at step 1302 where the ticket holder
> establishes communication with the server 900. In the present embodiment, the ticket holder
> uses a telephone and dials the telephone number indicated in instruction section 835 of the
> ticket 800. This telephone number connects the ticket holder to the server 900 via its IVRU
> 950. **Of course, the ticket holder may communicate in other manners** with the server 900,
> such as by using a computer, personal digital assistant (PDA), or other suitable device and/or
> other communication channel.

Claim 1:

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> (a) receiving a communication from the event customer, the communication including a request to obtain admittance to at least one event,

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Walker:

At step 1304, the server 900 requests that the ticket holder provide information that identifies the ticket 800 that is to be upgraded. In one embodiment, the server 900 **requests that the ticket holder enter the location identifier 820 of the ticket 800 which is to be upgraded.** Of course, other information that identifies the ticket 800 which is to be upgraded may be requested by the server 900. At step 1306, in response to the request of the server 900 at step 1304, the ticket holder transmits the location identifier 820 to the server 900 using his telephone.

Claim 1:

> **(a) . . . the communication also including an identifier associated with an identification device;**

Walker:

At step 1308, **the server 900 retrieves a record in the ticket database 920 whose field 920A contains the location number transmitted by the ticket holder** at step 1306. The server 900 determines whether there are upgrades available for the ticket 800. Thus, at step 1310, the server 900 reads the ticket class from the field 920C for the record retrieved at step 1308. The server 900 searches the field 940B of the inventory database 940 for records which indicate a ticket class which is more valuable than the ticket class indicated by the field 920C. If there are such more valuable ticket classes, the server 900 tracks the location identifiers of the seats to which the ticket holder may purchase an upgrade and the classes of the upgrades.

Claim 1:

> (b) **updating an account associated with said identifier** to reflect the request;

Walker:

At step 1312, the result of the search performed at step 1310 is analyzed. Thus, if it was determined at step 1310 that field 940B of the inventory database 940 includes records for

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ticket classes which are more valuable than the ticket class indicated by the field 920C, then processing continues at step 1314. There, the server 900 informs the ticket holder that upgrades are not available for the ticket 800. In this case, the server 900 terminates communication with the ticket holder and the process 1300 is complete.

If at step 1312 it was determined at step 1310 that field 940B of the inventory database 940 includes records for **ticket classes** which are more valuable than the **ticket class** indicated by the field 920C, then processing continues at step 1315. There, the server 900 determines the cost of the available upgrades. To do this, the server 900 searches the ticket upgrade database 930 for the available upgrades. As FIG. 11 illustrates, the cost of the available upgrades range "$10.00," "$35.00" and "$20.00" for the exemplary upgrades indicated in the figure. The server 900, via the IVRU 950, transmits the cost of the available upgrades to the ticket holder.

Claim 1:

       (e) determining a **predetermined time period** associated with the event indicative of **another event customer from event customers not attending the event** in accordance with first predetermined criteria;

===

Walker:

       At step 1316, **the server 900 instructs the ticket holder to select one of the available upgrades.** For example, if the ticket 800 has a ticket class equal to "UPPER DECK," then the server 900, via the IVRU 950, may transmit a list of available upgrades and prices to the ticket holder as follows: "To upgrade from your upper deck seat to a mezzanine seat for $10, press 1. To upgrade from your upper deck seat to a box seat for $35, press 2. If you do not wish to upgrade at this time, press 0."

Claim 1:

       (f) **releasing an allocation** associated with the another event customer and notifying at least one of the event customers that are at least one of **currently attending the event and registered for said at least one of reallocating, reprovisioning, upgrading and awarding** responsive to said releasing the allocation;

===

Walker:

       At step 1318 (FIG. 13b), the server 900 determines whether the **ticket holder has selected an available upgrade** from those presented at step 1316. Thus, if the ticket holder entered "0" at step 1316, then processing continues at step 1320 where the server 900, via the

IVRU 950, confirms that the ticket holder has chosen not to upgrade his ticket 800 and terminates communication with the ticket holder. **In this case, the process 1300 is complete.** If the ticket holder has entered a "1" or a "2" at step 1316, then he has selected an available upgrade. In this case, processing continues at step 1324.

Claim 1:

> (g) accepting by at least one of the event customers said at least one of reallocating, reprovisioning, upgrading and awarding **in accordance with second predetermined criteria**.

Walker:

At step 1324, the server 900 **requests that the ticket holder pay for the upgrade.** In one embodiment, the server 900 accepts payment via the ticket holder's credit card. In such a case, the server 900 prompts the ticket holder to transmit his name, credit card account number and the expiration date of his credit card. The ticket holder transmits this information to the server 900 using his telephone at step 1326.

Processing then continues at step 1328. There, the server 900 processes the charge for the upgrade using the information received at step 1326. In a preferred embodiment, this is done via a conventional credit card processing network, according to techniques that are well known in the art.

Claim 1:

> (c) accessing the account **by utilizing the identifier** stored on the identification device **at the point of sale system upon presentation of the identification device** to verify the request;

Walker:

Next, **the ticket 800 is altered to reflect the upgrade.** To do this, at step 1330 of FIG. 13c, the server 900 retrieves the cell locator 920D from the record of the ticket database 920 retrieved at step 1308. At step 1332, the server transmits instructions to the ticket holder to alter the cell indicated by the retrieved cell locator, for example, by removing a latex covering. To illustrate, the server 900 may retrieve a cell locator equal to "D5." In this case, the server 900 may instruct the ticket holder as follows: "To validate your upgrade, alter the cell corresponding to column D, row 5 of your ticket." As depicted in FIG. 8c, when the ticket

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holder follows these instructions, and alters the cell at D5, the word "UPGRADED" is revealed, as is the class ("BOX") to which the ticket holder has purchased an upgrade. If the ticket holder alters another cell, the word "VOID" is revealed. In this latter case, the ticket 800 becomes void and thus may not be used for admission into the venue.

At step 1334, the server 900 updates the inventory database 940. More specifically, in one embodiment, the server removes the record in the inventory database that corresponds to the upgrade purchased by the ticket holder. At step 1336, **the server 900 transmits the location identifier of the seat to which the ticket holder has upgraded to the ticket holder.** The ticket 800 may be provided with a space so that **the ticket holder may write the location identifier received from the server 900.** At step 1338, the server 900 updates the ticket database 920. To do this, the upgrade status stored in the field 920B is changed from "NOT UPGRADED" to "UPGRADED." The process 1300 then is complete.

Claim 1:

(g) accepting by at least one of the event customers said at least one of reallocating, reprovisioning, upgrading and awarding **in accordance with second predetermined criteria**.

Walker:

Thus, using the process 1300, **access within a venue may be controlled** by permitting a ticket holder to improve his seat for event by upgrading a ticket 800 which he holds for the event without physically surrendering the original ticket 800.

Claim 1:

(d) admitting the event customer at the point of sale system **after verification of the request;**

Walker:

As described above, **the present invention provides a ticket that can be altered by a ticket holder to obtain a refund or an upgrade. Because the ticket is altered,** the ticket holder need not physically surrender the ticket to another entity in order to obtain the refund or upgrade. In this way, the problems associated with the services and programs of the prior art which require physically surrendering the ticket for such refunds or upgrades are overcome.

Claim 1:

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          (g) accepting by at least one of the event customers said at least one of reallocating, reprovisioning, upgrading and awarding **in accordance with second predetermined criteria**.

Claims 2-17

      3. The method of claim 1, wherein said identification device comprises a memory medium for storing the identifier, and wherein said accessing step further comprises **reading said identifier from said identification device with a reading device**.

      7 (Original). The method of claim 1, further comprising **receiving demographic information from the event customer**.

      9 (Original). The method of claim 1, further comprising **generating at least one of a physical receipt, a confirmation, and an electronic confirmation with at least one of the identification device and the point of sale server**.

      10 (Original). The method of claim 1, further comprising the step of generating at least one of a physical receipt, a confirmation, and an electronic confirmation with at least one of the identification device and the point of sale server, **and the at least one of the physical receipt, the confirmation, and the electronic confirmation comprises at least one of reserved seating and purchase information**.

      13 (Original). The method of claim 1, wherein the **first predetermined criteria includes at least one of agreement with one or more of the event customers**, the event customer **not providing notice of non-attendance** a first predetermined time period prior to the event, the event customer **not providing notice of non-attendance** a second predetermined time period after start of the event, the event customer leaving the event early, and other predetermined criteria.

Claim 18

Walker:

      Referring next to FIG. 13, a process 1300 for enabling a ticket holder to upgrade a ticket 800 is described. The process 1300 begins at step 1302 where the ticket holder establishes communication with the server 900. In the present embodiment, the ticket holder uses a telephone and dials the telephone number indicated in instruction section 835 of the ticket 800. This telephone number connects the ticket holder to the server 900 via its IVRU

950. Of course, the ticket holder may communicate in other manners with the server 900, such as by using a computer, personal digital assistant (PDA), or other suitable device and/or other communication channel.

Claim 18:

(a) receiving a communication from the event customer, the communication including a request to obtain admittance to at least one event,

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Walker:

At step 1304, the server 900 requests that the ticket holder provide information that identifies the ticket 800 that is to be upgraded. In one embodiment, the server 900 requests that the ticket holder enter the location identifier 820 of the ticket 800 which is to be upgraded. Of course, other information that identifies the ticket 800 which is to be upgraded may be requested by the server 900. At step 1306, in response to the request of the server 900 at step 1304, the ticket holder transmits the location identifier 820 to the server 900 using his telephone.

Claim 18:

(a) ... the communication also including an identifier associated with an identification device;

Walker:

At step 1308, the server 900 retrieves a record in the ticket database 920 whose field 920A contains the location number transmitted by the ticket holder at step 1306. The server 900 determines whether there are upgrades available for the ticket 800. Thus, at step 1310, the server 900 reads the ticket class from the field 920C for the record retrieved at step 1308. The server 900 searches the field 940B of the inventory database 940 for records which indicate a ticket class which is more valuable than the ticket class indicated by the field 920C. If there are such more valuable ticket classes, the server 900 tracks the location identifiers of the seats to which the ticket holder may purchase an upgrade and the classes of the upgrades.

Claim 18:

(b) updating an account associated with said identifier to reflect the request;
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Walker:

At step 1312, the result of the search performed at step 1310 is analyzed. Thus, if it was determined at step 1310 that field 940B of the inventory database 940 includes records for ticket classes which are more valuable than the ticket class indicated by the field 920C, then processing continues at step 1314. There, the server 900 informs the ticket holder that upgrades are not available for the ticket 800. In this case, the server 900 terminates communication with the ticket holder and the process 1300 is complete.

If at step 1312 it was determined at step 1310 that field 940B of the inventory database 940 includes records for ticket classes which are more valuable than the ticket class indicated by the field 920C, then processing continues at step 1315. There, the server 900 determines the cost of the available upgrades. To do this, the server 900 searches the ticket upgrade database 930 for the available upgrades. As FIG. 11 illustrates, the cost of the available upgrades range "$10.00," "$35.00" and "$20.00" for the exemplary upgrades indicated in the figure. The server 900, via the IVRU 950, transmits the cost of the available upgrades to the ticket holder.

Claim 18:

(e) **determining an available allocation** associated with the event

Walker:

At step 1316, **the server 900 instructs the ticket holder to select one of the available upgrades.** For example, if the ticket 800 has a ticket class equal to "UPPER DECK," then the server 900, via the IVRU 950, may transmit a list of available upgrades and prices to the ticket holder as follows: "To upgrade from your upper deck seat to a mezzanine seat for $10, press 1. To upgrade from your upper deck seat to a box seat for $35, press 2. If you do not wish to upgrade at this time, press 0."

Claim 18:

(e) . . . and notifying at least one of the event customers that are at least one of **currently attending the event, and registered** for at least one of allocating, provisioning, upgrading and awarding **responsive to said determining the available allocation;**

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Walker:

At step 1318 (FIG. 13b), the server 900 determines whether the **ticket holder has selected an available upgrade** from those presented at step 1316. Thus, if the ticket holder entered "0" at step 1316, then processing continues at step 1320 where the server 900, via the IVRU 950, confirms that the **ticket holder has chosen not to upgrade his ticket 800 and** terminates communication with the ticket holder. **In this case, the process 1300 is complete.** If the ticket holder has entered a "1" or a "2" at step 1316, then he has selected an available upgrade. In this case, processing continues at step 1324.

Claim 18:

(f) accepting by at least one of the event customers said at least one of allocating, provisioning, upgrading and awarding **in accordance with predetermined criteria.**

Walker:

At step 1324, the server 900 **requests that the ticket holder pay for the upgrade.** In one embodiment, the server 900 accepts payment via the ticket holder's credit card. In such a case, the server 900 prompts the ticket holder to transmit his name, credit card account number and the expiration date of his credit card. The ticket holder transmits this information to the server 900 using his telephone at step 1326.

Processing then continues at step 1328. There, the server 900 processes the charge for the upgrade using the information received at step 1326. In a preferred embodiment, this is done via a conventional credit card processing network, according to techniques that are well known in the art.

Claim 18:

(c) at least one of accessing and verifying the account **by utilizing the identifier stored on the identification device at the point of sale system upon presentation of the identification device** to verify the request;

Walker:

Next, **the ticket 800 is altered to reflect the upgrade.** To do this, at step 1330 of FIG.
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13c, the server 900 retrieves the cell locator 920D from the record of the ticket database 920 retrieved at step 1308. At step 1332, the server transmits instructions to the ticket holder to alter the cell indicated by the retrieved cell locator, for example, by removing a latex covering. To illustrate, the server 900 may retrieve a cell locator equal to "D5." In this case, the server 900 may instruct the ticket holder as follows: "To validate your upgrade, alter the cell corresponding to column D, row 5 of your ticket." As depicted in FIG. 8c, when the ticket holder follows these instructions, and alters the cell at D5, the word "UPGRADED" is revealed, as is the class ("BOX") to which the ticket holder has purchased an upgrade. If the ticket holder alters another cell, the word "VOID" is revealed. In this latter case, the ticket 800 becomes void and thus may not be used for admission into the venue.

At step 1334, the server 900 updates the inventory database 940. More specifically, in one embodiment, the server removes the record in the inventory database that corresponds to the upgrade purchased by the ticket holder. At step 1336, **the server 900 transmits the location identifier of the seat to which the ticket holder has upgraded to the ticket holder.** The ticket 800 may be provided with a space so that **the ticket holder may write the location identifier received from the server 900.** At step 1338, the server 900 updates the ticket database 920. To do this, the upgrade status stored in the field 920B is changed from "NOT UPGRADED" to "UPGRADED." The process 1300 then is complete.

Claim 18:

> (f) accepting by at least one of the event customers said at least one of allocating, provisioning, upgrading and awarding **in accordance with predetermined criteria.**

Walker:

> Thus, using the process 1300, **access within a venue may be controlled** by permitting a ticket holder to improve his seat for event by upgrading a ticket 800 which he holds for the event without physically surrendering the original ticket 800.

Claim 18:

> (d) admitting the event customer at the point of sale system **after verification of the request;**

Walker:

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As described above, **the present invention provides a ticket that can be altered by a ticket holder** to obtain a refund or an upgrade. **Because the ticket is altered,** the ticket holder need not physically surrender the ticket to another entity in order to obtain the refund or upgrade. In this way, the problems associated with the services and programs of the prior art which require physically surrendering the ticket for such refunds or upgrades are overcome.

Claim 18:

(f) accepting by at least one of the event customers said at least one of allocating, provisioning, upgrading and awarding **in accordance with predetermined criteria**.

Claims 28-40

Claim 28:

Walker:

Referring next to FIG. 13, a process 1300 for enabling a ticket holder to upgrade a ticket 800 is described. The process 1300 begins at step 1302 where the ticket holder establishes communication with the server 900. In the present embodiment, the ticket holder uses a telephone and dials the telephone number indicated in instruction section 835 of the ticket 800. This telephone number connects the ticket holder to the server 900 via its IVRU 950. **Of course, the ticket holder may communicate in other manners** with the server 900, such as by using a computer, personal digital assistant (PDA), or other suitable device and/or other communication channel.

Claim 28:

at least one of **transmitting to and receiving from, at least one wireless device** of the event customer a communication including a **request** for at least one of a movie ticket, a sporting event ticket, a concession, a service, an offer, an entertainment service and merchandise,

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Walker:

At step 1304, the server 900 requests that the ticket holder provide information that identifies the ticket 800 that is to be upgraded. In one embodiment, the server 900 **requests that the ticket holder enter the location identifier 820 of the ticket 800 which is to be upgraded.** Of course, other

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information that identifies the ticket 800 which is to be upgraded may be requested by the server 900. At step 1306, in response to the request of the server 900 at step 1304, the ticket holder transmits the location identifier 820 to the server 900 using his telephone.

Claim 28:

> the communication also including an identifier <u>associated with</u> at least one of the event customer and an identification device used by the event customer;

Walker:

> At step 1308, the server 900 retrieves a record in the ticket database 920 whose field 920A contains the location number transmitted by the ticket holder at step 1306. The server 900 determines whether there are upgrades available for the ticket 800. Thus, at step 1310, the server 900 reads the ticket class from the field 920C for the record retrieved at step 1308. The server 900 searches the field 940B of the inventory database 940 for records which indicate a ticket class which is more valuable than the ticket class indicated by the field 920C. If there are such more valuable ticket classes, the server 900 tracks the location identifiers of the seats to which the ticket holder may purchase an upgrade and the classes of the upgrades.

Claim 28:

> (b) at least one of <u>accessing and updating an account associated with said event customer</u> responsive to the request;

Walker:

> At step 1312, the result of the search performed at step 1310 is analyzed. Thus, if it was determined at step 1310 that field 940B of the inventory database 940 includes records for ticket classes which are more valuable than the ticket class indicated by the field 920C, then processing continues at step 1314. There, the server 900 informs the ticket holder that upgrades are not available for the ticket 800. In this case, the server 900 terminates communication with the ticket holder and the process 1300 is complete.

> If at step 1312 it was determined at step 1310 that field 940B of the inventory database 940 includes records for ticket classes which are more valuable than the ticket class indicated by the field 920C, then processing continues at step 1315. There, the server 900 determines the cost of the available upgrades. To do this, the server 900 searches the ticket upgrade database 930 for the available upgrades. As FIG. 11 illustrates, the cost of the available upgrades range

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"$10.00," "$35.00" and "S20.00" for the exemplary upgrades indicated in the figure. The server 900, via the IVRU 950, transmits the cost of the available upgrades to the ticket holder.

Claim 28:

> (c) at least one of **accessing and verifying the account by utilizing the identifier** optionally at the point of sale system upon communication with the identification device to verify the request;

Walker:

> At step 1316, **the server 900 instructs the ticket holder to select one of the available upgrades.** For example, if the ticket 800 has a ticket class equal to "UPPER DECK," then the server 900, via the IVRU 950, may transmit a list of available upgrades and prices to the ticket holder as follows: "To upgrade from your upper deck seat to a mezzanine seat for $10, press 1. To upgrade from your upper deck seat to a box seat for $35, press 2. If you do not wish to upgrade at this time, press 0."

Claim 28:

> (e) **determining an available response associated with the request and the event and notifying** at least one of the event customers that are ~~at least one of~~ **currently attending the event,** the available response comprising another **communication responsive to the request** to the at least one of the event customers and responsive to said step (a) of said at least one of transmitting to and receiving from, the event customer the communication including the request;

Walker:

> At step 1318 (FIG. 13b), the server 900 determines whether the **ticket holder has selected an available upgrade** from those presented at step 1316. Thus, if the ticket holder entered "0" at step 1316, then processing continues at step 1320 where the server 900, via the IVRU 950, confirms that the **ticket holder has chosen not to upgrade his ticket 800** and terminates communication with the ticket holder. **In this case, the process 1300 is complete.** If the ticket holder has entered a "1" or a "2" at step 1316, then he has selected an available upgrade. In this case, processing continues at step 1324.

Claim 28:

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        (f) at least one of accepting and participating by the at least one of the event customers **using the wireless device in receiving said** at least one of the movie ticket, the sporting event ticket, the concession, the service, the offer, the entertainment service and the merchandise

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Walker:

        At step 1324, the server 900 **requests that the ticket holder pay for the upgrade.** In one embodiment, the server 900 accepts payment via the ticket holder's credit card. In such a case, the server 900 prompts the ticket holder to transmit his name, credit card account number and the expiration date of his credit card. The ticket holder transmits this information to the server 900 using his telephone at step 1326.

        Processing then continues at step 1328. There, the server 900 processes the charge for the upgrade using the information received at step 1326. In a preferred embodiment, this is done via a conventional credit card processing network, according to techniques that are well known in the art.

Claim 28:

        (c) at least one of **accessing and verifying the account by utilizing the identifier** optionally at the point of sale system upon communication with the identification device to verify the request;

Walker:

        Next, **the ticket 800 is altered to reflect the upgrade.** To do this, at step 1330 of FIG. 13c, the server 900 retrieves the cell locator 920D from the record of the ticket database 920 retrieved at step 1308. At step 1332, the server transmits instructions to the ticket holder to alter the cell indicated by the retrieved cell locator, for example, by removing a latex covering. To illustrate, the server 900 may retrieve a cell locator equal to "D5." In this case, the server 900 may instruct the ticket holder as follows: "To validate your upgrade, alter the cell corresponding to column D, row 5 of your ticket." As depicted in FIG. 8c, when the ticket holder follows these instructions, and alters the cell at D5, the word "UPGRADED" is revealed, as is the class ("BOX") to which the ticket holder has purchased an upgrade. If the ticket holder alters another cell, the word "VOID" is revealed. In this latter case, the ticket 800 becomes void and thus may not be used for admission into the venue.

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At step 1334, the server 900 updates the inventory database 940. More specifically, in one embodiment, the server removes the record in the inventory database that corresponds to the upgrade purchased by the ticket holder. At step 1336, **the server 900 transmits the location identifier of the seat to which the ticket holder has upgraded to the ticket holder.** The ticket 800 may be provided with a space so that **the ticket holder may write the location identifier received from the server 900.** At step 1338, the server 900 updates the ticket database 920. To do this, the upgrade status stored in the field 920B is changed from "NOT UPGRADED" to "UPGRADED." The process 1300 then is complete.

Claim 28:

> **(f) at least one of accepting and participating by the at least one of the event customers <u>using the wireless device in receiving</u> said at least one of** the movie ticket, the sporting event ticket, the concession, the service, the offer, the entertainment service and the merchandise.

Walker:

> Thus, using the process 1300, **access within a venue may be controlled** by permitting a ticket holder to improve his seat for event by upgrading a ticket 800 which he holds for the event without physically surrendering the original ticket 800.

Claim 28:

> **(d) optionally admitting the event customer** at the point of sale system **after verification of the request;**

Walker:

> As described above, **the present invention provides a ticket that can be altered by a ticket holder** to obtain a refund or an upgrade. **Because the ticket is altered,** the ticket holder need not physically surrender the ticket to another entity in order to obtain the refund or upgrade. In this way, the problems associated with the services and programs of the prior art which require physically surrendering the ticket for such refunds or upgrades are overcome.

Claim 28:

> **(f) at least one of accepting and participating by the at least one of the event customers <u>using the wireless device in receiving said at least one of</u>** the movie

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ticket, the sporting event ticket, the concession, the service, the offer, the entertainment service and the merchandise.

Claims 29-39:

29. The method of claim 28, further comprising the step of **polling the wireless devices of a plurality of users for additional communications** including additional requests for at least one of additional movie tickets, additional sporting event tickets, additional concessions, additional services, additional offers, additional entertainment services and additional merchandise

30. The method of claim 28, further comprising the step of processing customer profiles in accordance with predetermined criteria, and **determining responsive to the processing of the customer profiles event customers to be notified** via at least one of an announcement, manually, wireless device, mobile telephone, and bulletin board.

31. The method of claim 28, further comprising the step of processing customer profiles in accordance with predetermined criteria, and **determining responsive to the processing of the customer profiles event customers to be notified** via the at least one wireless device, and notifying the event customers responsive to the customer profiles comprising at least one of patron satisfaction communication, additional revenue, additional advertising, and advertising sponsorship **for advertising on the wireless device.**

32. The method of claim 28, further comprising the step of processing customer profiles in accordance with predetermined criteria, and determining **responsive to the processing of the customer profiles event customers to be notified** via the at least one wireless device, and notifying the event customers **responsive to the customer profiles comprising advertising sponsorship for advertising on the wireless device.**

33. The method of claim 28, wherein said step (a) at least one of transmitting to and receiving from, the at least one wireless device of the event customer, further comprises the step of transmitting to and receiving from, the at least one wireless device of the event customer the communication including the request for at least one of the movie ticket, the sporting event ticket, the concession, the service, the offer, the entertainment service and the merchandise, **via a short message text service (SMS) communication** that at least one of are displayed on and notify the wireless device upon receipt from the wireless device.

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34. The method of claim 28, further comprising the step of receiving demographic information from the event customer; processing the demographic information; transmitting to the at least one wireless device of the event customer at least one of an advertisement, additional demographic information, direct marketing and focused advertising.

35. The method of claim 28, further comprising the step of registering by the event customer, and the event customer providing targeted marketing information including age and interests and compiling information for advertising and marketing services, and receiving demographic information from the event customer; processing the demographic information; transmitting to the at least one wireless device of the event customer at least one of an advertisement, additional demographic information, direct marketing and focused advertising.

36. The method of claim 28, further comprising the step of registering by the event customer, and the event customer providing information and compiling information for advertising and marketing services; processing the information; transmitting to the at least one wireless device of the event customer targeted communications to the event customer allowing a sponsor to leverage user and market information to create the targeted communications comprising at least one of an advertisement, additional information, direct marketing and focused advertising.

37. The method of claim 28, further comprising the step of generating an electronic confirmation and transmitting the electronic confirmation to the wireless device.

38. The method of claim 28, further comprising the step of generating an electronic confirmation and transmitting the electronic confirmation to the wireless device, and downloading at least one of instructions and location related information for the event customer to go to a location associated with the communication.

39. The method of claim 28, further comprising the step of generating an electronic confirmation and transmitting the electronic confirmation to the wireless device, and downloading at least one of instructions and location related information for the event customer to go to a location associated with the communication, including directions using a global positioning system in combination with the wireless device.

Claim 40:

40. A method of dynamically communicating with an event customer via a data communication network, said data communication network optionally

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comprising a server, workstations operably connectable to said server, one or more databases operably connectable to said server and said workstations, said workstations optionally including a web browser interface facilitating communication with said server, a communication server operably connectable to the server, a communication system operably connectable to the communication server, and wireless devices operably connectable to said server, said wireless devices including at least one of a smart card, a personal digital assistant, a mobile telephone, and a mobile data device, said wireless device comprising at least one of transmitting and receiving means and transceiver means for receiving and transmitting signals, said method comprising at least one of the sequential, non-sequential and sequence independent steps of:

(a) **processing customer profiles in accordance with predetermined criteria**, and determining **responsive to the processing** of the customer profiles event customers to be notified via the at least one wireless device, and notifying the event customers responsive to the customer profiles comprising advertising sponsorship for **advertising on the wireless device via a short message text service (SMS)** communication that at least one of are displayed on and notify the wireless device upon receipt from the wireless device;

(b) at least one of transmitting to and receiving from, **via the short message text service (SMS) communication that at least one of are displayed on and notify the wireless device** upon receipt from the wireless device, at least one wireless device of the event customer a communication including a request for at least one of a movie ticket, a sporting event ticket, a concession, a service, an offer, an entertainment service and merchandise, the communication **also including an identifier associated with at least one of the event customer and an identification device** used by the event customer;

(c) at least one of **accessing and updating an account associated with said event customer** responsive to the request;

(d) at least one of **accessing and verifying the account by utilizing the identifier** optionally at the point of sale system upon communication with the identification device to verify the request;

(e) optionally admitting the event customer at the point of sale system **after verification of the request;**

(f) **determining an available response associated with the request and the event** and notifying at least one of the event customers, the available response comprising another communication responsive to the request, **via the short message text service (SMS) communication** that at least one of are displayed on and notify the wireless device upon receipt from the wireless device, to the at least one of the event customers and responsive to said step (b) of said at least one of transmitting to and receiving from, the event customer the communication including the request;

(g) at least one of accepting and participating by the at least one of the event customers **using the wireless device** in receiving said at least one of the movie ticket, the sporting event ticket, the concession, the service, the offer, the entertainment service and the merchandise **via the short message text service (SMS) communication** that at least one of are displayed on and notify the wireless device upon receipt from the wireless device; and

(h) generating **an electronic confirmation** and transmitting the electronic confirmation to the at least one event customer via the wireless device **via the short message text service (SMS)** communication that at least one of are displayed on and notify the wireless device upon receipt from the wireless device, **and said electronic confirmation being used by the at least one event customer to fulfill said request**.

With regard to amended claims 15 and 16, and new claims 41-45, Applicant respectfully submits that these claims have been amended/added with respect to complimentary patent scope and clarity. The amendments and new claims have not been submitted to narrow the patent protection. Applicant believes that the Examiner should not need any further description for these claims. However, if there are additional questions, the Examiner is requested to contact the Applicant.

CONCLUSION

Applicant respectfully submits that, as described above, the cited prior art does not show or suggest the combination of features recited in the claims. Applicant does not concede that the cited prior art shows any of the elements recited in the claims. However, Applicant has provided specific examples of elements in the claims that are clearly not present in the cited prior art.

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Applicant strongly emphasizes that one reviewing the prosecution history should not interpret any of the examples Applicant has described herein in connection with distinguishing over the prior art as limiting to those specific features in isolation. Rather, Applicant asserts that it is the combination of elements recited in each of the claims, when each claim is interpreted as a whole, which is patentable. Applicant has emphasized certain features in the claims as clearly not present in the cited references, as discussed above. However, Applicant does not concede that other features in the claims are found in the prior art. Rather, for the sake of simplicity, Applicant is providing examples of why the claims described above are distinguishable over the cited prior art.

Applicant wishes to clarify for the record, if necessary, that the claims have been amended to expedite prosecution. Moreover, Applicant reserves the right to pursue the original subject matter recited in the present claims in a continuation application.

Any narrowing amendments made to the claims in the present Amendment are not to be construed as a surrender of any subject matter between the original claims and the present claims; rather merely Applicant's best attempt at providing one or more definitions of what the Applicant believes to be suitable patent protection. In addition, the present claims provide the intended scope of protection that Applicant is seeking for this application. Therefore, no estoppel should be presumed, and Applicant's claims are intended to include a scope of protection under the Doctrine of Equivalents.

Further, Applicant hereby retracts any arguments and/or statements made during prosecution that were rejected by the Examiner during prosecution and/or that were unnecessary to obtain

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allowance, and only maintains the arguments that persuaded the Examiner with respect to the allowability of the patent claims, as one of ordinary skill would understand from a review of the prosecution history. That is, Applicant specifically retracts statements that one of ordinary skill would recognize from reading the file history were not necessary, not used and/or were rejected by the Examiner in allowing the patent application.

For all the reasons advanced above, Applicant respectfully submits that the rejections have been overcome and should be withdrawn.

For all the reasons advanced above, Applicant respectfully submits that the Application is in condition for allowance, and that such action is earnestly solicited.
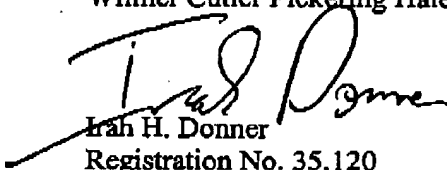
Application No. 09/910,821

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees, which may be required for this Amendment, or credit any overpayment to Deposit Account No. 08-0219

In the event that an Extension of Time is required, or which may be required in addition to that requested in a petition for an Extension of Time, the Commissioner is requested to grant a petition for that Extension of Time which is required to make this response timely and is hereby authorized to charge any fee for such an Extension of Time or credit any overpayment for an Extension of Time to Deposit Account No. 08-0219.

Respectfully submitted,

Wilmer Cutler Pickering Hale and Dorr LLP

Irah H. Donner
Registration No. 35,120

399 Park Avenue
New York, NY   10022
TEL   (212) 230-8887
FAX   (212) 230-8888

Date: 1/4/05

IHD